

**§2201. Notice to licensing boards and obligor; judicial review**

**1. Notice.** The department may serve notice upon a support obligor who is not in compliance with an order of support that informs the obligor of the department's intention to submit the obligor's name to the appropriate board as a licensee who is not in compliance with an order of support. The notice must inform the obligor that:

- A. The obligor may request an administrative hearing to contest the issue of compliance; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- B. A request for hearing must be made in writing and must be received by the department within 20 days of service; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- C. If the obligor requests a hearing within 20 days of service, the department shall stay the action to certify the obligor to a board for noncompliance with an order of support pending a decision after hearing; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- D. If the obligor does not request a hearing within 20 days of service and is not in compliance with an order of support, the department shall certify the obligor to the appropriate board for noncompliance with an order of support; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- E. If the department certifies the obligor to a board for noncompliance with an order of support, the board must revoke the obligor's license and refuse to issue or reissue a license until the obligor provides the board with a written confirmation of compliance from the department that states the obligor is in compliance with the obligor's order of support. A revocation by an agency or a refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002; and [PL 2009, c. 158, §1 (AMD).]
- F. [PL 2009, c. 158, §2 (RP).]
- G. The obligor can comply with an order of support by:
  - (1) Paying current support;
  - (2) Paying all past-due support or, if unable to pay all past-due support and a periodic payment for past-due support has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the department; and
  - (3) Meeting the obligor's health insurance obligation. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

The notice must include the address and telephone number of the department's support enforcement office that issues the notice and a statement of the need to obtain a written confirmation of compliance from that office as provided in subsection 8. The department shall attach a copy of the obligor's order of support to the notice. Service of the notice must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this subsection, this must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of the notice described in this subsection may be made by an authorized representative of the commissioner.

[PL 2009, c. 158, §§1, 2 (AMD); PL 2009, c. 290, §22 (AMD).]

**1-A. Written agreement to pay past-due support.** An obligor who is presently unable to pay all past-due support may come into compliance with the support order by executing a written payment agreement with the department and by complying with that agreement. A condition of a written payment agreement must be that the obligor pay the current child support when due. Before a written payment agreement is executed, the obligor shall:

A. Disclose fully to the department in writing on a form prescribed by the department the obligor's financial circumstances, including income from all sources, assets, liabilities and work history for the past year; and [PL 1997, c. 466, §9 (NEW); PL 1997, c. 466, §28 (AFF).]

B. Provide documentation to the department concerning the obligor's financial circumstances, including copies of the most recent state and federal income tax returns, both personal and business, a copy of a recent pay stub representative of current income and copies of other records that show the obligor's income and the present value of assets held by the obligor. [PL 1997, c. 466, §9 (NEW); PL 1997, c. 466, §28 (AFF).]

After full disclosure, the department shall determine the obligor's ability to pay past-due support and request the obligor to execute a written payment agreement consistent with the obligor's ability to pay, not to exceed the limits on income withholding in section 2356.

[PL 1997, c. 466, §9 (NEW); PL 1997, c. 466, §28 (AFF).]

**1-B. Failure to comply with written agreement.** Failure to comply with a written payment agreement is grounds for license revocation unless the obligor notifies the department that the obligor is unable to comply with the agreement and provides the department with evidence of the obligor's current financial circumstances to support the claim. The consequences of failing to comply with a written payment agreement and the requirements to avoid license revocation, if the obligor can not comply with the agreement, must be stated in the agreement. If the obligor claims inability to comply with a written payment agreement, the department, upon motion to the District Court, may request the court to determine the obligor's ability to pay past-due support. After notice and an opportunity for hearing, the court may make a finding of money due, render judgment in that amount and order any relief provided under sections 2603 and 2603-A. For purposes of this subsection, the commissioner may designate employees of the department who are not attorneys to represent the department in District Court. The commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subsection.

[PL 1997, c. 466, §9 (NEW); PL 1997, c. 466, §28 (AFF).]

**2. Administrative hearing.** An obligor may request an administrative hearing upon service of the notice described in subsection 1. The request for hearing must be made in writing and must be received by the department within 20 days of service. The department shall conduct hearings under this subsection in accordance with the requirements of Title 5, chapter 375, subchapter IV. The issues that may be determined at hearing are limited to whether the obligor is required to pay child support under an order of support and whether the obligor is in compliance with an order of support. The obligor may raise additional issues, including the reasonableness of a payment agreement in light of the obligor's current circumstances, to be preserved for appeal.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**3. Decision after hearing.** The department shall render a decision after hearing without undue delay as to whether the obligor is in compliance with the obligor's order of support. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**4. Appeal to Superior Court.** If the obligor appeals the department's decision under subsection 3, the Superior Court may hear and determine issues raised at the hearing, including the reasonableness of a payment agreement in light of the obligor's current circumstances.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**5. Stay.** If an obligor timely requests a hearing to contest the issue of compliance, the department may not certify the name of the obligor to a board for noncompliance with an order of support until the

department issues a decision after hearing that finds the obligor is not in compliance with an order of support.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**6. Certification of noncompliance.** The department may certify in writing to the appropriate board that a support obligor is not in compliance with an order of support if:

A. The obligor does not timely request a hearing upon service of a notice issued under subsection 1 and is not in compliance with an order of support 21 days after service of the notice; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. The department issues a decision after a hearing that finds the obligor is not in compliance with an order of support and the obligor has not appealed the decision within the 30-day appeal period provided in subsection 3; [PL 1997, c. 466, §10 (AMD); PL 1997, c. 466, §28 (AFF).]

C. The court enters a judgment on a petition for judicial review that finds the obligor is not in compliance with a support order; [PL 1997, c. 466, §10 (AMD); PL 1997, c. 466, §28 (AFF).]

D. The obligor abandons a timely request for a hearing on the department's notice of noncompliance and is not in compliance with the support order; or [PL 1997, c. 466, §11 (NEW); PL 1997, c. 466, §28 (AFF).]

E. The obligor fails to comply with a written payment agreement, does not notify the department that the obligor is unable to comply with the agreement and does not provide the department with evidence of the obligor's current financial circumstances. [PL 1997, c. 466, §11 (NEW); PL 1997, c. 466, §28 (AFF).]

The department shall send by regular mail a copy of a certification of noncompliance filed with a board to the obligor at the obligor's most recent address of record.

[PL 1997, c. 466, §§10, 11 (AMD); PL 1997, c. 466, §28 (AFF).]

**7. Notice from board.** A board shall notify an obligor certified by the department under subsection 6, without undue delay, that the obligor's application for the issuance or renewal of a license may not be granted or that the obligor's license has been revoked because the obligor's name has been certified by the department as a support obligor who is not in compliance with an order of support.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**8. Written confirmation of compliance.** When an obligor who is served notice under subsection 1 subsequently complies with the official order of support, the department shall provide the obligor with written confirmation that the obligor is in compliance with the order of support.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**9. Rules.** The department shall adopt rules to implement and enforce the requirements of this section.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**10. Agreements.** The department and the various boards shall enter into agreements that are necessary to carry out the requirements of this section, but only to the extent the department determines it is cost-effective.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**11. Motion to modify order of support; stay.** This section does not prohibit a support obligor from filing a motion to modify support with the court or from requesting the department to amend a support obligation established by an administrative decision.

[PL 2009, c. 158, §3 (AMD).]

**12. Reporting.** On or before April 1, 1994, or as soon as economically feasible and at least annually, all boards subject to this section and the Department of Professional and Financial Regulation, Division of Administrative Services shall provide to the department specified information, on magnetic

tape or other machine-readable form, according to standards established by the department, about applicants for licensure and all current licensees. The Department of Professional and Financial Regulation, Office of Securities shall provide the specified information for only those current licensees that are residents of this State. The information to be provided must include all of the following information about the licensee:

- A. Name; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- B. Address of record; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- C. Federal employer identification number or social security number; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- D. Type of license; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- E. Effective date of license or renewal; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- F. Expiration date of license; and [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- G. Active or inactive status. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

[PL 2001, c. 182, §6 (AMD).]

**12-A. Commissioner of Inland Fisheries and Wildlife report.** The Commissioner of Inland Fisheries and Wildlife shall provide annually to the department on magnetic tape or other machine-readable form, according to standards established by the department, watercraft, snowmobile and ATV registration information concerning obligors who are residents of this State. The information to be provided must include all of the following information about the registrant:

- A. Name; [PL 2007, c. 206, §3 (NEW).]
- B. Address of record; [PL 2007, c. 206, §3 (NEW).]
- C. Make, model and identification number for each watercraft registered under Title 12, section 13052; each snowmobile registered under Title 12, section 13104; and each ATV registered under Title 12, section 13155; [PL 2007, c. 206, §3 (NEW).]
- D. Type of registration; [PL 2007, c. 206, §3 (NEW).]
- E. Effective date of registration or registration renewal; and [PL 2007, c. 206, §3 (NEW).]
- F. Expiration of registration. [PL 2007, c. 206, §3 (NEW).]

[PL 2007, c. 206, §3 (NEW).]

**13. Effect of noncompliance.** The department, upon receipt of the licensee information referred to in subsection 12 and registration information referred to in subsection 12-A, shall identify and notify each board and the Department of Professional and Financial Regulation, Division of Administrative Services, of the names of their licensees and registrants who are support obligors subject to this section. The notice must include the social security number and address of the support obligor, the name, address and telephone number of the department's designee for implementing this section and a certification by the department that it has verified that the licensee or registrant is a support obligor subject to this section. When the department notifies a board under this subsection, the department shall provide adequate notice of its action to the obligor. The notice must inform the obligor of the right to request a hearing on the issue of whether the obligor is in compliance with an order of support. The board may not issue or renew a license or registration to a person whose name is on the most recent list from the department until the board receives a copy of the written confirmation of compliance specified in subsection 8.

[PL 2007, c. 206, §4 (AMD).]

**14. Subsequent reissuance, renewal or other extension of license or certificate.** The board may reissue, renew or otherwise extend the license or certificate of authority in accordance with the board's rules after the board receives a copy of the written confirmation of compliance specified in subsection 8. A board may waive any applicable requirement for reissuance, renewal or other extension if it determines that the imposition of that requirement places an undue burden on the person and that waiver of the requirement is consistent with the public interest.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**15. Program review.** In furtherance of the public policy of increasing collection of child support, the department shall report the following to the Legislature and the Governor on January 31, 1999 and biennially thereafter:

A. The number of support obligors identified as licensees subject to this section; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. The number of support obligors identified by the department under this section who are not in compliance with a support order; and [PL 2003, c. 396, §8 (AMD).]

C. The number of actions taken by the department under this section and the results of those actions. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

[PL 2003, c. 396, §8 (AMD).]

#### SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 466, §§9-11 (AMD). PL 1997, c. 466, §28 (AFF). PL 2001, c. 182, §6 (AMD). PL 2003, c. 396, §8 (AMD). PL 2005, c. 352, §8 (AMD). PL 2007, c. 206, §§3, 4 (AMD). PL 2009, c. 158, §§1-3 (AMD). PL 2009, c. 290, §22 (AMD).

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